



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Nos: UI-2021-001753, UI-2021-01754

First-tier Tribunal Nos: HU/00399/2021
HU/00404/2021

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On 27 October 2023

Before

DEPUTY UPPER TRIBUNAL JUDGE PARKES

Between

AAG
SAG

Appellants

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr F Afzal (Counsel, instructed by Global Migration Solutions UK)

For the Respondent: Mr C Williams (Senior Home Office Presenting Officer)

Heard at Birmingham on 10th November 2022.

Order Regarding Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellants are granted anonymity.

No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellants. Failure to comply with this order could amount to a contempt of court.

DECISION AND REASONS

1. The First Appellant was born on the 27th of October 2005, the Second Appellant was born on the 21st of December 2003, both are citizens of Eritrea. The Appellants are the sisters. The Appellants had applied for entry to the UK as family members of a relative,

their half-sister, under the family reunion rules relating to refugees. A third Appellant, their brother-in-law and half-sister's husband, saw his appeal allowed and so he plays no further part in the proceedings.

2. Their applications had been refused by the ECO for the reasons given in the Refusal Notices of the 3rd of November 2020. The Appellants appealed their refusal decisions and their appeals were heard by Judge Chohan at Birmingham on the 4th of November 2021 at a hearing attended by the Sponsor and represented by Mr Afzal who appeared before us. Judge Chohan dismissed the Appellants' appeals and permission to appeal to the Upper Tribunal was granted on the basis that he may have erred in respect of the assessment of the Appellants' circumstances in Sudan in the absence of the First Appellant and that the Judge had not properly assessed maintenance.
3. The decision of Judge Chohan is at page 18. It was noted that the issues for his consideration were agreed as those set out in the Refusal Notices. The Refusal Notices stated that the issues included maintenance and accommodation. Judge Chohan found that the Sponsor could maintain the Appellants and there is no criticism of the aspect of the decision.
4. The evidence relating to maintenance and accommodation is set out in paragraph 16 of the decision. The Sponsor was living in a one bedroom flat. There was no evidence that the Sponsor intended to seek different accommodation and no evidence to show what the cost of such accommodation would be or the Sponsor's ability to obtain and pay for it.
5. For the Appellants it was submitted that the Sponsor would be in a position to move to larger premises for their arrival given the evidence of her earnings. It was the Sponsor's oral evidence, set out in paragraph 16, that she worked at a warehouse earning between £400 to £500 a week. That was followed by the observation "There is some evidence of income and remittances sent to Sudan to support her two sisters. On balance I am satisfied that the Sponsor would be able to adequately maintain her sisters in the UK." It was after those comments that the issue of accommodation was addressed.
6. However, the evidence before Judge Chohan did not deal with the position after the arrival of the Appellants and yet this was an issue raised by the ECO in the Refusal Notices. With there being no evidence of the future cost or availability of accommodation the Judge was entitled to find that the evidence did not show that that part of the Immigration Rules was satisfied. We are satisfied that the Judge did not err in the approach taken to the evidence that was available, having regard to the issues that he had to decide, and the findings made were justified.
7. Mr Afzal further submitted that the circumstances of the Appellants would be such in Sudan that there are serious and compelling circumstances that make their exclusion undesirable. This too turns on the availability of accommodation. The finding that the accommodation would be overcrowded would mean that the Appellants, if admitted, would be compelled to live in accommodation that would be illegal and so contrary to public policy. The fact that the First Appellant would be leaving the Appellants in

Sudan did not affect this aspect of the case as the accommodation point still had to be addressed.

8. Judge Chohan's findings on this point were clearly available to him on the evidence presented. As was noted in paragraph 18 there was little evidence of the Appellants' circumstances in Sudan and the finding that there were suitable arrangements in place in Sudan was an appropriate inference from the information before him.
9. In summary we find that Judge Chohan did not err in the approach to the accommodation issue in the UK and did not err in the approach to the Appellants' circumstances as they would become in Sudan. There was no basis for allowing the appeal on the grounds that their circumstances in Sudan would be serious or compelling and the public interest was not outweighed in the light of the other findings.

Notice of Decision

10. For the reasons given these appeals are dismissed, the decision of Judge Chohan stands as the disposal of the Appellants' appeals.

Judge Parkes

Judge of the Upper Tribunal
Immigration and Asylum Chamber